

Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.

2SB114
. U6AB

S

OFFICIAL JOURNAL OF THE PLANT VARIETY PROTECTION OFFICE



SEP 25 '07

PREFACE

The Plant Variety Protection Act, (7 U.S.C. 2321 et. seq.) authorizes the Secretary of Agriculture to publish an Official Journal and to provide the public with pertinent information relating to the operations of the Plant Variety Protection Office.

The statute also authorizes the Secretary to disseminate technological and other information available to the Office that would encourage innovation and promote progress in plant breeding.

The Official Journal, which is published quarterly, includes instructions issued by the Office and related information. It will be sent free to anyone on request. Send requests to:

Plant Variety Protection Office
Grain Division, AMS
U.S. Department of Agriculture
Room 301, National Agricultural Library
Beltsville, Maryland 20705

This issue covers the period from July 1, 1976, through September 30, 1976.

CONTENTS

	Page
Applications Received.....	4
Amendments.....	4
Certificates Issued.....	5
General Information.....	10

APPLICATIONS RECEIVED

<u>Application No.</u>	<u>Date</u>	<u>Name of applicant(s)</u>	<u>Name of kind</u>	<u>Name of variety (or designation)</u>
76TQ001	7/2/76	Ben Fish and Son	lima bean	C-elite
**76TQ002	6/11/76	University of Nebraska & ARS	wheat	Lancota (3)
**76TQ003	7/16/76	Coker's Pedigreed Seed Company	soybean	Coker 73-375 (3)
**76TQ004	7/1/76	Alexandria Seed Company, Inc.	rice	AS1004 (2)
76TQ005	7/19/76	Ring Around Products, Inc.	soybean	RA-427
76TQ006	7/27/76	(Permission to publish not rec'd.)	soybean	RA-501
**76TQ007	8/2/76	(Permission to publish not rec'd.)	cotton	GSA C71033 (3)
76TQ008	8/11/76	Crites-Moscow Growers, Inc.	pea	Spirit
76TQ009	8/13/76	(Permission to publish not rec'd.)	Chin. cabbage	Lei-choi
**76TQ010	8/9/76	(Permission to publish not rec'd.)	polargrass	Wolverine (2)
**76TQ011	8/13/76	North Carolina Agricultural Experiment Station	peanut	NC 6 (3)
**76TQ012	8/18/76	F. P. King & Son, Seed Breeders	soybean	PK & S 36 RW (3)
76TQ013	8/25/76	Stanley C. Barnes	wheat	Mirada
**76TQ014	8/30/76	C. Paul Hanks and Wardell M. Hanks	cotton	N.M. Acala #20 (2)
**76TQ015	9/3/76	Coker's Pedigreed Seed Company	wheat	Coker 747 (3)
**76TQ016	9/3/76	McNair Seed Company	soybean	McNair 500 (3)
76TQ017	9/9/76	(Permission to publish not rec'd.)	clover, ladino	Sacramento
76TQ018	9/16/76	Joseph Harris Company, Inc.	marigold	Gypsy Orange
**76TQ019	9/16/76	World Seeds, Inc.	wheat	W.S. 25 (3)

AMENDMENTS

7500042	12/16/75	(Permission to publish not rec'd.)	alfalfa	Nugget
**7500101	6/23/75	(Permission to publish not rec'd.)	alfalfa	Ladak 75 (3)
**7400070	2/25/76	Jack Bernard Fleming	oat	J.F.O. 3tee (3)

** To be sold by variety name only as a class of certified seed.
 () No. of generations of certified seed permitted beyond breeder's seed.

CERTIFICATES ISSUED AND NOVELTY BASED ON APPLICANT'S CLAIM

<u>Certificate No.</u>	<u>Issue Date</u>	<u>Owner</u>	<u>Name of Kind</u>	<u>Name of Variety</u>
**7300040	July 19, 1976	National Seed Development Organisation, Ltd.	barley	'Maris Mink' (3)
'Maris Mink' is most similar to 'Deba Abed' except ear emergence of 'Maris Mink' is 5 days earlier and straw length is 10 cm shorter than 'Deba Abed.'				
**730066	July 19, 1976	Borden Peanut Company, Inc.	peanut	'Valencia McRan' (3)
'Valencia McRan' is similar to Valencia types, 'Tennessee Red' and 'New Mexico Valencia A,' except 'Valencia McRan' has shorter (37 vs. 41-42 mm), larger diameter (14 vs. 10-11 mm) pods, greater pod breaking strength (11.18 vs. 6/12-7.03 pounds force) and a thicker shell (2.19 vs. 1.60-1.61 mm)				
**7400055	July 19, 1976	Lofts Pedigreed Seed, Inc.	ryegrass	'Diplomat' (2)
'Diplomat' most closely resembles 'Manhattan' perennial ryegrass, but 'Diplomat' is 4 to 7 days earlier to anthesis and has greater resistance to brown patch when compared with 'Manhattan' in New Jersey.				
7500049	July 19, 1976	Rogers Brothers Seed Company	bean	'Century Gold'
'Century Gold' most closely resembles 'Splendorgold,' but 'Century Gold' has pods that average 3 cm longer than 'Splendorgold.' 'Century Gold' is 5 days later in maturity than 'Splendorgold.'				
7500077	July 19, 1976	Asgrow Seed Company	pea	'Aska'
'Aska' most closely resembles 'Alaska Small Sieve M163,' but 'Aska' is 7-10 cm taller.				

** To be sold by variety name only as a class of certified seed.
 () No. of generations of certified seed permitted beyond breeder's seed.

CERTIFICATES ISSUED AND NOVELTY BASED ON APPLICANT'S CLAIM

<u>Certificate No.</u>	<u>Issue Date</u>	<u>Owner</u>	<u>Name of Kind</u>	<u>Name of Variety</u>
7500104	July 19, 1976	Canners Seed Corporation	pea	'#8221 Early Perfection'
'#8221 Early Perfection' most closely resembles '#3019 Early Perfection,' but '#8221 Early Perfection' is resistant to root rot and '#3019 Early Perfection' is not.				
7600018	July 19, 1976	Ferry-Morse Seed Company	bean	'Tidal Wave'
'Tidal Wave' most closely resembles 'Early Gallatin.' 'Tidal Wave' is distinct from 'Early Gallatin' in plant type by having a narrower bush (43.9 cm vs. 57.6 cm), smaller pod length (15.6 cm vs. 16.4 cm), fewer seeds per pod (6.0 vs. 6.7).				
7600020	July 19, 1976	Ferry-Morse Seed Company	bean	'Torrent'
'Torrent' most closely resembles the variety 'Avalanche,' but 'Torrent' has pods that average 2.6 cm longer than 'Avalanche.'				
7600027	July 19, 1976	Asgrow Seed Company	watermelon	'Sunshade'
'Sunshade' most closely resembles 'Charleston Grey,' but 'Sunshade' differs by having unlobed leaves.				
**7500037	Sept. 7, 1976	Ardie G. Gustafson	pea	'Edison' (3)
'Edison' most closely resembles 'Scout,' but differs by having green seed that weigh 15 g/100 in contrast to 'Scout,' which has yellow seed that weigh 21 g/100.				
**7500038	Sept. 7, 1976	Ardie G. Gustafson	pea	'Almota' (3)
'Almota' most closely resembles 'Freez-Elite.' 'Almota' differs from 'Freez-Elite' by a vine height of 50 cm vs. 61 cm, pointed vs. blunt pods, 9 vs. 7 peas/pod, and green vs. yellow cotyledons, respectively.				

****** To be sold by variety name only as a class of certified seed.

() No. of generations of certified seed permitted beyond breeder's seed.

CERTIFICATES ISSUED AND NOVELTY BASED ON APPLICANT'S CLAIM

<u>Certificate No.</u>	<u>Issue Date</u>	<u>Owner</u>	<u>Name of Kind</u>	<u>Name of Variety</u>
**7500080	Sept. 7, 1976	Shallow Water Grain, Inc.	wheat	'III' (2)
'III' most closely resembles '2148.' 'III' has straw colored chaff and is susceptible to soil-borne mosaic. '2148' has brown chaff and is resistant to soil-borne mosaic.				
**7600037	Sept. 7, 1976	Sacramento Valley Milling Co.	kidney bean	'Sacramento' (3)
'Sacramento,' a light red kidney bean, most closely resembles 'California,' except onset of pod development in 'Sacramento' is earlier and the mature plant height is 10 to 15 cm shorter than 'California.' 'Sacramento' reaches the cutting stage of maturity 10 to 15 days earlier than 'California.'				
7600019	Sept. 7, 1976	Ferry-Morse Seed Company	bean	'Aristocrop'
'Aristocrop' most closely resembles the variety 'Bluecrop,' but 'Aristocrop' flowers 2 days earlier than 'Bluecrop' and 'Aristocrop' seeds are .88 mm shorter in length than 'Bluecrop.'				
7500047	Sept. 7, 1976	Waller Flowerseed Company	nasturtium	'Whirlybird Cherry Rose'
'Whirlybird Cherry Rose' most closely resembles 'Whirlybird Scarlet,' but 'Whirlybird Cherry Rose' differs by having cerise rose colored flowers instead of scarlet.				
7500048	Sept. 7, 1976	Waller Flowerseed Company	nasturtium	'Whirlybird Gold'
'Whirlybird Gold' most closely resembles 'Whirlybird Scarlet,' but 'Whirlybird Gold' differs by having yellow flowers instead of scarlet.				
7400024	Sept. 7, 1976	Quali-Sel, Inc.	lettuce	'Red Coach 74A'
'Red Coach 74A' most closely resembles its parent 'Vanguard,' but 'Red Coach 74A' has a glossier green leaf color that resembles that of its other parent, 'Calmar.' 'Red Coach 74A' matures its seed 5 days earlier than 'Vanguard.'				

** To be sold by variety name only as a class of certified seed.
 () No. of generations of certified seed permitted beyond breeder's seed.

CERTIFICATES ISSUED AND NOVELTY BASED ON APPLICANT'S CLAIM

Certificate No.	Issue Date	Owner	Name of Kind	Name of Variety
7400019	Sept. 7, 1976	Quali-Sel, Inc.	lettuce	'Domingos 41'
'Domingos 41' most closely resembles 'Great Lakes 66,' but 'Domingos 41' differs by having leaves of heavier texture, darker green color and higher gloss that resemble those of 'Valrio.' 'Domingos 41' also has shorter leaves and more exposed heads than 'Great Lakes 66.'				
**7400098	Sept. 29, 1976	Mississippi Agricultural & Forestry Experiment Station	cowpea	'Magnolia Blackeye' (3)

In overall appearance 'Magnolia Blackeye' most closely resembles 'Extra Early Blackeye,' except 'Magnolia Blackeye' is a "bush" type with no runners in long days, while 'Extra Early Blackeye' has typical runners. The dry seed of 'Magnolia Blackeye' are very small, blocky to almost oblong in shape and have only scattered fine wrinkling of the seed coat with a bright appearance in mass. The dry seed of 'Extra Early Blackeye' are much larger, bean to semi-bean in shape, and have wrinkled seed coats with a dull appearance in mass. 'Magnolia Blackeye' is resistant to Races 1, 2 and 3 of *Fusarium oxysporum* f. *tracheiphilum* and is resistant to *Meloidogyne incognita*, *M. incognita* var. *acrita*, *M. arenaria* and *M. javanica*; whereas, 'Extra Early Blackeye' is resistant to only Race 1 of the wilt organism.

**7500085	Sept. 29, 1976	Northrup, King and Company	soybean	'S 1346' (3)
'S 1346' is most similar to 'Hark.' 'S 1346' is from 2 to 5 days earlier in maturity; its plants are 9 to 12 cm taller; and its seeds weigh 2 to 2.5 g/100 more than those of 'Hark.'				
**7600066	Sept. 29, 1976	Northrup, King and Company	soybean	'S 1492' (3)
'S 1492' is most similar to 'B 216.' 'S 1492' can be differentiated from 'B 216' by hilum color. 'S 1492' has buff hilum color; 'B 216' has yellow hilum color.				

** To be sold by variety name only as a class of certified seed.

() Number generations of certified seed permitted beyond breeder's seed.

CERTIFICATES ISSUED AND NOVELTY BASED ON APPLICANT'S CLAIM

<u>Certificate No.</u>	<u>Issue Date</u>	<u>Owner</u>	<u>Name of Kind</u>	<u>Name of Variety</u>
**7500082	Sept. 7, 1976	Research Associates, Inc.	wheat	'Plainsman V' (2)
'Plainsman V' is most similar to 'Triumph 64.' 'Plainsman V' differs from 'Triumph 64' by having brown glumes and semi-dwarf height, while 'Triumph 64' has tan glumes and normal plant height.				
7600064	Sept. 29, 1976	Asgrow Seed Company	soybean	'A 2656'
'A 2656' is most similar to 'Amsoy 71' and 'Beeson.' 'A 2656' has an imperfect black hilum; whereas, 'Amsoy 71' has a yellow hilum; 'A 2656' has type B protein; whereas, 'Beeson' has type A protein.				
**7600044	Sept. 29, 1976	North American Plant Breeders	soybean	'Lancer' (3)
'Lancer' is most similar to 'Pickett 71' except 'Lancer' has a brown pod; whereas, 'Pickett 71' has a tan pod.				
**7500040	Sept. 29, 1976	Ardie G. Gustafson	pea	'Prospector' (3)
'Prospector' most closely resembles 'W.V.5C Early Perfection,' but 'Prospector' is 25 cm shorter and has reduced stipules. 'Prospector' is resistant to enation and streak virus while 'W.V.5C Early Perfection' is not.				

** To be sold by variety name only as a class of certified seed.
 () No. of generations of certified seed permitted beyond breeder's seed.

GENERAL INFORMATION

UPOV Meeting

A council meeting of UPOV was held in Geneva on October 13-14. The Committee of Experts on Revision and Interpretation of the Convention still have not agreed on its position with respect to all items that would create problems for nonmember countries in joining UPOV. The plan now is for the committee to meet in March 1977 with invited nonmember countries, recommend its position to the Council in October 1977, and issue invitations in January 1978 to a Diplomatic Conference in October 1978.

Mission to Europe

Between October 1 through 12 a delegation from the U.S. visited four European countries to study their methods of plant variety protection. The countries visited were the United Kingdom, France, The Netherlands, and the Federal Republic of Germany. The mission ended at Geneva, Switzerland, for a meeting with the officials and members of the Union for the Protection of New Varieties of Plants (UPOV). Delegates on the mission from the United States were Stanley Schlosser (Patent and Trademark Office), Bernard Leese (Plant Variety Protection Office), James Frink (Tobacco and Seeds Division-FAS), Leo Donahue (Plant Patent Owners Association), Roy Becker (Association of Official Seed Certifying Agencies) and Wayne Underwood (American Seed Trade Association and National Council of Commercial Plant Breeders).

Answers to Questions

Section 113-Right to Save Seed; Crop Exemption

The two situations involved are as follows:

1. Protected varieties not required to be sold as certified seed.

A farmer whose primary occupation is the growing of crops for food or feed, and who has obtained seed of a protected variety, not required to be sold by variety name only as a class of certified seed, may:

- a. Save seed for his own use from his crop production.
- b. Sell seed to another farmer, but this second farmer may not sell seed from his production.

This exemption applies only to protected varieties that are not required to be sold by variety name as a class of certified seed. No seedsman, seed dealer, or elevator may sell seed (for seeding purposes) of a protected variety without the owner's permission.

2. Protected varieties under "Certification option."

Varieties protected through the "certification only" option are regulated by the Federal Seed Act. This prohibits sale of a

protected variety by variety name except as a class of Certified seed. For example; Amsoy 71 soybeans (a certified, protected variety) may be sold by variety name only as Certified seed. Anyone who sells uncertified seed of this protected variety by variety name is violating the Federal Seed Act as well as the rights of the owner under the Plant Variety Protection Act. A farmer may save seed for his own production only. He cannot legally sell uncertified seed of this variety by variety name to anyone, including his neighbors or friends.

Issuing Two or More Original Certificates

We have reviewed our position on the issuance of more than one original certificate for the same variety.

The wording of section 53(b) of the Plant Variety Protection Act can be interpreted either way; however, since it speaks of "a certificate" being issued, we believe it means that one certificate is to be issued regardless of the number of co-owners named.

We believe the use of the plural form of "certificates" in section 180.175 would not be sufficient to overrule the use of the singular form in the Act.

As this Act is based largely on the wording of the Patent Act, we inquired of the Patent and Trademark Office what its policy is. We were informed that only one original patent is granted on each invention regardless of the number of inventors.

The Patent and Trademark Office cited the problem of recall of a patent if more than one were to be issued.

If a certificate is in error as to the naming of the breeder (owner), it can be corrected at any time and the certificate re-issued (section 51).

Reproducing Transplants

Section 111(3) of the Plant Variety Protection Act makes it an infringement to sexually multiply the novel variety as a step in marketing (for growing purposes) without authority of the owner.

It is our understanding that if the seed is purchased with authority of the owner, the right to produce plants is inherent in the purchase of the seed. If the seed is saved from a previous crop or purchased without authority of the owner and used to produce transplants for sale, it would be an infringement of the owner's rights.

Section 113 of the Act provides a grower's exemption for saving seed to produce a crop for sale for other than reproductive purposes or for sale of saved seed to other similar type growers, but this exemption does not apply to transplants.

Since section 111(7) covers the reproduction, even if done asexually, this section would also prevent vegetative reproduction of a protected variety for sale as transplants.

United States Department of Agriculture
Agricultural Marketing Service
Grain Division
Plant Variety Protection Office, Rm. 301
National Agricultural Library
Beltsville, Maryland 20705

OFFICIAL BUSINESS
Penalty for Private Use \$300

POSTAGE
& FEES PAID
U.S. DEPT.
OF
AGRICULTURE



AGR 101

FIRST CLASS